IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

**WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE**

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 11449 of 2004

Between:

Baka Mani S/o Jajebba, Aged 53 years, R/o Peddaharijanawada,

S.T.V. Nagar, Tirupathi, Chittoor District

..... PETITIONER

AND

1 Tirumala Tirupathi Devasthanams Tirupathi, Chittoor District

rep by Executive Officer
2 Smt. K. Jhansi Rani W/o R. Rajasekhar, Officer on Special Duty (Properties)
Tirumala Tirupathi Devasthanams Tirupathi, Chittoor District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate order direction or a Writ more particularly one in the nature of a Writ of Mandamus declaring that the respondents have no jurisdiction to interfere with the possession and enjoyment of the petitioner in the land of an extent of altogether 8 Acres in Survey Nos. 58/1 and 58/2 situated in Tirupathi Village of Chandragiri Talauq in Chittoor District and that the impugned action without following the due process of law and without any authority of law in violative of Articles 21 and 300-A of the Constitution of India.

Counsel for the Petitioner: MR.KOKA RAGHAVA RAO

Counsel for the Respondent Nos.1 and 2: MR.M.ADINARAYANA RAJU, SC

FOR T.T.D.

The Court made the following :

ORDER:

The petitioner is seeking a direction to declare that the respondents have no jurisdiction to interfere with his possession and enjoyment in the land in an extent of altogether 8 acres in Sy.Nos.58/1 and 58/2 situated at Tirupathi Village of Chandragiri taluk in Chittoor District and to declare the action of the respondents in interfering with the possession, as illegal, arbitrary and violative of Articles 21 and 300-A of the Constitution of India.

The sole petitioner has filed this Writ Petition stating that the land in possession of 25 tenants in Sy.Nos.58/1 and 58/2, described as the Government land belong to Hathiramji Muth, Thirupathi as the same is sought to be acquired vide notice issued under Section 5-A of the Land Acquisition Act, dated 02.06.1982 by the Special Deputy Collector (L.A.) T.T.D., Thirupathi. The father of the petitioner is figured at Sl.No.15 in the said notice issued under Section 5-A of the Land Acquisition Act, dated 02.06.1982.

It is stated that as the said land was only the source of livelihood of the petitioner and others, the said 25 persons made a representation with a request to permit them to retain 8 acres of land on payment of the value of the land. Accordingly, the Tirumala Tirupathi Devasthanams (for short 'T.T.D.') vide their Resolution No.258, dated 12.06.1988 accepted the request of the harijan tenants as they agreed to pay a sum of Rs.40,000/- per acre as per the T.T.D. rate through their letter dt.06.05.1982 and register the said land after collecting the registration charges from the harijan tenants. It is stated that the said 25 harijan tenants have deposited the cost of 8 acres land at the rate of Rs.40,000/- per acre amounting to Rs.4,36,800/-. It is further stated that they have paid the cost of 8 acres land. But, there is no document to show that they have paid the registration charges.

Generally stamp duty and registration charges will be paid at the time of registering the documents only. Therefore, I am unable to accept the contention of the learned counsel for the petitioner that the said 25 tenants have paid the registration charges also.

While the things stood thus, the petitioner and others are enjoying the

said 8 acres land, the second respondent came to the land on 02.07.2004 at about 11.00 A.M. and sought to interfere with the rightful possession and enjoyment of their property without following the due process of law.

A counter has been filed by the second respondent stating that the respondents have never interfered with the peaceful possession and enjoyment of the petitioner's land. As a matter of fact, all the said harijan tenants from whom the T.T.D. acquired the land permitting them to enjoy the said extent of 8 acres land sold away by executing six registered sale deeds as early as on 14.08.1991 even before the T.T.D. issued proceedings dated 08.06.1993. It is stated that they sold the said land at the rate of Rs.80,000/- per acre.

A perusal of all the six sale deeds covered by registered document numbers 3301/1991, 3302/1991, 3304/1991, 3305/1991, 3307/1991 and 3310/1991 shows that they cover the total extent of 8 acres of land in Sy.No.58/1.

It is stated that the petitioner is also one of the vendors in respect of the sale deed, dated 18.08.1991 covered by Document No.3304/1991 and another document No.3310 of 1991. It is further stated that the right, title and interest of the petitioner has already been transferred in favour of his vendees and there is no grievance by any of the vendees of the said harijan tenants and the petitioner having lost his right, title and interest and without there being any claim and the petitioner without disclosing the transfer of the entire land and without furnishing any of the particulars of other tenants and vendees have filed this writ petition seeking declaration to declare that the respondents have no right, title or interest to interfere with the possession of the said extent of 8 acres land.

In the counter it is clearly stated that the respondents have not at all interfered with the said extent of 8 acres of land as alleged by the petitioner which was already sold away in favour of certain persons viz. Gadireddy Guruvareddy and G.Krishnareddy and they have no grievance whatsoever in respect of their possession and enjoyment over the said property. One of the contentions that the T.T.D. handed over 8 acres of land in Sy.No.58/1 of Thirupathi to Sri Anikutti Govindaiah and others, erstwhile tenants of the Hathiramji Muth after necessary survey demarcating the said 8 acres of land,

is not at all disputed. It is stated that only the land in respect of Sy.No.58/1-A in an extent of 8 acres was given to the said tenants.

It is stated in the proceedings dated 08.06.1993 that the extent of 8 acres in Sy.Nos.58/1 and 58/2 of Thirupathi was ordered to be handed over to Sri Anikutti Govindaiah and other erst-while tenants of the Hathiramji Muth. But, the certificate of handing and taking over the possession goes to show that the land handed over to the said Anikuti Govindaiah is in respect of 8 acres land covered by Sy.No.58/1A alone. Therefore, it is stated in the counter that the land covered by Sy.No.58/2 was never allotted to the tenants of Hathiramji Muth and the same was retained by the T.T.D. only which is in its continuous possession.

It is further stated that one building of Sri Govindaraja Swamy Arts College in Sy.No.58/1B with a road in between them and the Eastern side of the college hostel site is the Sy.No.58/2 and the compound walls were constructed on four sides of the Govindaraja Swamy Arts College and on the Eastern side of the college two gates are opened into the road and similarly compound walls were constructed on Western side, Northern side, Southern side and partly Eastern side of the Hotel and a portion of the hotel building on Eastern side adjacent to the land covered by Sy.No.58/2 kept open and the compound walls were constructed on Northern side and Eastern side of the site in Sy.No.58/2 and on the Southern side of the land in Sy.No.58/2 is covered by fencing and on the Eastern side of the said site is kept open which is adjacent to the Hotel building. But, one day it was found that the fencing was removed and the land was cleared. So, immediately action was taken to complete the compound wall on the Southern side and brick wall was started on 02.07.2004 and completed the construction of compound wall by 04.07.2004 pending plastering work. At that time, the petitioner obtained stay order on 08.07.2004 and therefore the respondents have stopped the plastering work. It is further stated that the respondents have never interfered with the rightful possession and enjoyment of the property, which was handed over in respect of 8 acres land covered by Sy.No.58/1. But, on the other hand, some miscreants have been interfering with the fencing and the construction of the compound wall under the guise of stay orders granted by this Court.

The learned counsel for the petitioner submits that though the petitioner

along with others who are tenants, they already sold the land in question in favour of their vendees, they are entitled to get the registered sale deeds. If they want formal sale deeds, they may approach the T.T.D. authorities, if they are entitled so. That is not a prayer or the relief sought for in this Writ Petition. Therefore, I am unable to accept the said contention.

The only question that arises for consideration is as to whether the petitioner is entitled for a declaration as sought for.

Admittedly the petitioner is the son of one of the tenants in whose favour 8 acres of land was permitted to be retained. It is not in dispute that the 8 acres land was already transferred in favour of the third parties. The third parties have not put forth any claims over their vendors i.e. the petitioner and others. That being so, I am of the opinion that the petitioner has already lost his right, title and interest and only in the event of interference by the T.T.D. in respect of the land that was already sold by the petitioner and others, then it is open for the vendees and similarly situated other tenants to prevent the T.T.D. authorities from interfering with the rightful possession and enjoyment. I do not see any illegal action or interference by the respondents in respect of the land in an extent of 8 acres covered by Sy.No.58/1-A situated at Thirupathi village of Chandragiri taluk of Chittoor District.

Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

Dated:06-04-2005

Ccm

To:

1 The Executive Officer Tirumala Tirupathi Devasthanams,

Tirupathi, Chittoor District

2 Two CD copies.